

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

KATIE ANNE PLATTE, ASHLEY BERDEN,  
CULLIN STEWART, and SAMUEL  
PAUL MANESS,

Plaintiffs,

v.

Case Number 05-10200-BC  
Honorable David M. Lawson

THOMAS TOWNSHIP, a Municipal Corporation;  
CITY OF MOUNT PLEASANT, a Municipal  
Corporation; STANLEY A. DINUS, in his official  
capacity as Director 1 Chief of Police of the  
Central Michigan University Police Department;  
ISABELLA COUNTY, a Municipal Corporation;  
JENNIFER M. GRANHOLM, in her Official  
Capacity as Governor of the State of Michigan;  
COLONEL TADARIAL STURDIVANT, in his  
Official Capacity as Director of the Michigan  
Department of State Police,

Defendants.

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**CONSENT JUDGMENT**

Plaintiffs Samuel Maness and Cullin Stewart and defendant Isabella County have submitted to the Court a stipulation for entry of a consent judgment. In complete settlement of the action with respect to it, defendant Isabella County promises to pay \$5,000 inclusive of costs and attorney fees to these plaintiffs jointly. The parties note that this amount in fact was exchanged pursuant to this Court's previous order that was vacated on May 31, 2006. The County further agrees to the plaintiffs' request for preliminary injunctive relief that would prohibit it and its police officers from enforcing the provisions of Michigan Compiled Laws § 436.1703(6) to the extent those provisions permit law enforcement officers to require non-driver minors to submit to warrantless breathalyzer tests under penalty of a civil infraction. The Court has reviewed the parties' submissions and finds

that the settlement is fair, reasonable, and in the best interests of the plaintiffs.

Accordingly, it is **ORDERED AND ADJUDGED** that the parties' stipulation is **ACCEPTED** and the settlement is **APPROVED**.

It is further **ORDERED AND ADJUDGED** that defendant Isabella County pay plaintiffs Maness and Stewart jointly the sum of **Five Thousand Dollars (\$5,000)**. This amount includes all fees and costs incurred to the present date and already has been paid by defendant Isabella County.

It is further **ORDERED AND ADJUDGED** that defendant Isabella County, its agents, servants, and employees, and all persons in active concert with them, are **RESTRAINED AND ENJOINED** from enforcing Mich. Comp. Laws § 436.1703(6) to the extent those provisions permit law enforcement officers to require non-driver minors to submit to warrantless breathalyzer tests under penalty of a civil infraction.

It is further **ORDERED AND ADJUDGED** that preliminary injunctive relief shall continue during the pendency of this case until such time as there has been a final judicial determination or declaration, including decisions made after an appeal, as to constitutionality of section 436.1703(6).

It is further **ORDERED AND ADJUDGED** that if, upon judicial determination or declaration, section 436.1703(6) is found unconstitutional on its face, then the parties stipulate and agree that the preliminary injunctive relief shall become a permanent injunction prohibiting enforcement of the statute as stated above.

It is further **ORDERED AND ADJUDGED** that if, upon final judicial determination or declaration, section 436.1703(6) is found constitutional on its face, then the parties stipulate and agree that the preliminary injunctive relief shall be dissolved.

It is further **ORDERED AND ADJUDGED** that if, upon final judicial determination or

declaration, no express ruling is made as to whether section 436.1703(6) is facially constitutional, but there is a finding that section 436.1703(6) is unconstitutional as applied by defendant Thomas Township, then the parties stipulate and agree that preliminary injunctive relief shall be dissolved. In that event, defendant Isabella County stipulates and agrees that it will instruct its police officers to comply with the final judicial determination or declaration in the future when determining whether, under the circumstances, it is constitutional to require minor, non-drivers to submit to warrantless breathalyzer tests upon penalty of a civil infraction.

s/David M. Lawson \_\_\_\_\_  
DAVID M. LAWSON  
United States District Judge

Dated: August 22, 2006

**PROOF OF SERVICE**

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on August 22, 2006.

s/Tracy A. Jacobs \_\_\_\_\_  
TRACY A. JACOBS